

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

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**IN RE: CENTURYLINK  
RESIDENTIAL CUSTOMER  
BILLING DISPUTES LITIGATION**

This Document Relates to:

ALL ACTIONS

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**MDL No. 17-2795 (MJD/KMM)**

**PLAINTIFFS' SCHEDULING AND  
DISCOVERY PLAN BRIEF**

Plaintiffs are residential and commercial customers of Defendant CenturyLink, Inc. and several of its subsidiaries and affiliates (collectively “Defendants” or “CenturyLink”). Plaintiffs allege that Defendants engaged in a common practice and pattern of deceptive sales and billing practices across the dozens of states in which CenturyLink does business. Defendants are also the subject of a number of securities fraud actions and an action by the Minnesota Attorney General related to fundamentally similar allegations.

**A. Primary Facts, Allegations, Claims, and Defenses**

CenturyLink is a telecommunications company that sells a variety of products and services to consumers, including high speed internet, television, and local and long distance telephone services. As Plaintiffs have alleged in the various actions now consolidated before this Court, maximizing revenue is at the core of CenturyLink’s business model, which it aggressively pursues by attempting to maximize the number of services, products, and related fees it can bill its customers. Unfortunately for Plaintiffs, CenturyLink’s desire to maximize revenues comes at their expense. In its pursuit of

profits, CenturyLink has come to disregard traditional notions of good faith and fair dealing and instead has chosen to engage in nefarious and unlawful sales and billing practices that added false and unauthorized charges to customers' accounts.

On June 14, 2017, a former CenturyLink employee filed a whistleblower complaint in the Superior Court of Arizona for Maricopa County alleging that she was terminated for reporting unlawful sales and billing practices she had observed and refused to take part in as a sales representative. The whistleblower alleged that CenturyLink maintained a program for its employees and agents that provided financial incentives to, among other things, charge customers for services they did not order and/or to overcharge customers for services they did order. On July 12, 2017—the date Plaintiffs in *Romero v. CenturyLink*, No. 0:17-cv-02832, filed their complaint against CenturyLink in the District of Minnesota—the Attorney General for the State of Minnesota also filed a lawsuit against CenturyLink alleging the company engaged in fraudulent and deceptive trade practices in selling its services to Minnesota residents. The Minnesota Attorney General's complaint asserted, among other things, that CenturyLink engaged in a systematic practice of quoting one price for services and then charging a higher price than agreed. Moreover, Arizona's Attorney General previously investigated and entered into an "assurance of discontinuance" with CenturyLink, which prohibited the same type of conduct alleged in the consolidated cases.

All of the suits brought against CenturyLink allege a fundamentally similar core of factual allegations. All assert that CenturyLink has willfully injured its customers through unlawful sales and billing practices in several discrete ways, including, but not

limited to: (1) charging higher rates than originally quoted and agreed; (2) charging for services or products on accounts that had never been opened, were cancelled, or for products that were returned; (3) failing to credit accounts for incorrect bills after agreeing to do so; (4) providing lower valued products or services than agreed; and (5) sending accounts to collections based upon improper and disputed charges.

CenturyLink cannot minimize the myriad complaints against it as mere “billing disputes” with its customers or as isolated events. Rather, they are consistent with the experiences of thousands of customers who have been injured by CenturyLink and demonstrate a pattern of unlawful activity. Simple Google and Twitter searches with the term “CenturyLink” and any number of additional keywords, such as “scam,” “fraud,” and “bill,” return countless pages of customer complaints bemoaning the same conduct alleged in Plaintiffs’ complaints. Additionally, consumer watchdog website [consumeraffairs.com](http://consumeraffairs.com) houses thousands of customer complaints that primarily focus on CenturyLink’s fraudulent sales and billing practices. *See, e.g.*, Consumer Affairs, Top 3,617 Reviews and Complaints about CenturyLink, [https://www.consumeraffairs.com/cell\\_phones/centurylink.html](https://www.consumeraffairs.com/cell_phones/centurylink.html) (last visited Dec. 1, 2017).

The allegations facing CenturyLink show a deliberate pattern of misconduct designed to obtain illicit financial benefits at its customers’ expense. By encouraging their employees to add unauthorized charges and/or bill customers in excess of the terms bargained for, CenturyLink shifted the burden of accurate billing to its customers, daring them to “catch me if you can.” While overcharging individual consumers a few hundred

dollars may not seem sufficient to support individual litigation, when viewed in the aggregate, massive amounts of unauthorized funds have been collected, making a class action is the only practicable vehicle available for consumers to seek redress.

The fifteen class action lawsuits filed by residential and commercial customers have been consolidated in Multidistrict Litigation proceedings in this Court for pretrial purposes.<sup>1</sup> Each of these actions seeks to represent a similar class of plaintiffs harmed by CenturyLink's sales and billing practices. Plaintiffs have asserted numerous legal claims against CenturyLink, including, but not limited to: (1) common law fraud; (2) violations of various state consumer fraud statutes, including Minn. Stat. §§ 325F.69 and 8.31, subd. 3a; (3) violations of various state unfair competition and unlawful trade practices acts; (4) breach of contract; (5) breach of the duty of good faith and fair dealing; (6) unjust enrichment; and (7) for an accounting. Plaintiffs seek all legal and equitable remedies allowed by law.

#### **B. Overview of the Procedural Status of MDL Cases**

Fifteen customer actions have been filed against CenturyLink arising from the conduct described above, and all are at the same essential procedural stage. In most cases, the transferor court entered a stipulated stay pending resolution of CenturyLink's MDL petition. On October 5, 2017, October 17, 2017, and October 25, 2017, the JPML transferred and consolidated 14 of the actions in this Court. The fifteenth action, *Kramer*

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<sup>1</sup> The JPML also conditionally transferred the four securities fraud actions pending against CenturyLink to this Court for MDL consolidation. However, CenturyLink is currently challenging their inclusion and seeking to consolidate them separately in the Western District of Louisiana.

*v. CenturyLink, Inc., et al.*, 17-cv-05001 (D. Minn.), filed November 3, 2017, is now consolidated with the other cases before this Court.

**1. *Status of Discovery to Date***

There has been no discovery conducted to date in any of the actions consolidated in this MDL.

**2. *Status of Motions, Decisions, and Other Important Events***

Except for *Chavez v. CenturyLink, et al*, No. 1:17-cv-01561-MSK-KMT (D. Colo. filed June 26, 2017), there are no motions, decisions, or other important events known to be pending in any of the cases. *Chavez* was transferred to this Court with a motion to dismiss pending. On August 28, 2017, the parties filed a joint motion to stay the pending litigation in light of Defendants' MDL transfer petition. The court did not rule upon the parties' request for a stay and Defendants subsequently moved to dismiss Plaintiff's complaint for lack of personal jurisdiction on September 12, 2017. In response, Plaintiff filed an amended complaint naming additional CenturyLink subsidiaries as defendants on October 3, 2017. Defendants then sought and obtained an extension to respond to Plaintiff's amended complaint on October 6, 2017. However, on October 31, 2017, the JPML conditionally transferred *Chavez* to the District of Minnesota for consolidation in this MDL.

**C. *Status of Related State-Court Litigation***

There are no known private customer actions currently pending in state court. *Lucero v. CenturyLink, Inc.*, Case No. D-202-CV-201705833 (N.M. Dist. Ct. filed Aug. 11, 2017), was removed to federal court in New Mexico and subsequently transferred to

this Court on October 31, 2017, pursuant to the JPML's transfer order. *Garten v. CenturyLink, Inc.*, Case No. A-17-757179-C (Nev. Dist. Ct. filed June 20, 2017), was also removed to federal court in Nevada and subsequently transferred to this Court on October 10, 2017, pursuant to the JPML transfer order. On July 12, 2017, the Attorney General for the State of Minnesota sued CenturyLink in Minnesota state court and alleged that CenturyLink is engaged in the unlawful practice of billing Minnesota customers higher amounts than its sales agents originally quoted. *See State of Minnesota v. CenturyTel Broadband Services LLC, et al*, No. 02-CV-17-3488 (Minn. Dist. Ct. July 12, 2017). While the case is still ongoing, the Court recently issued an Order directing CenturyLink to clearly disclose at the time of sale: (1) the monthly base price; (2) monthly recurring fees on top of the base price; (3) any one-time fees; (4) the amount of the first invoice and future invoices; (5) the time period for which the quoted prices apply; and (6) restriction on a consumer's ability to receive the quoted price. *See Stipulated Consent Order*, Case No. 02-CV-17-3488 (Minn. Dist. Ct. filed Oct. 23, 2017).

**D. Prediction of the Number of Cases that may Become a Part of This MDL**

Plaintiffs in the now-consolidated MDL proceedings intend to file a Consolidated Complaint. Plaintiffs are unaware at this time of any other actions that may be filed and made part of this MDL.

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**By: ZIMMERMAN REED LLP**

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